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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,655	02/20/2004	Jeffrey Yass	192154	7256
7590 Gregory J. Lavorgna Drinker Biddle & Reath LLP One Logan Square 18th & Cherry Streets Philadelphia, PA 19103-6996			EXAMINER SHAIKH, MOHAMMAD Z	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,655

Applicant(s)

YASS ET AL.

Examiner

MOHAMMAD Z. SHAIKH

Art Unit

3694

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is in response to an amendment received on 12/23/10 for patent application 10,783,655.

Status of Claims

2. Claims 1-42 are pending.

Claim Rejections- 35 U.S.C § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 18-19, 22, 27, 30-31,33 are being rejected under 35 U.S.C 103(a) as being unpatentable over US 2002/0161684 to Whitworth in view of US Patent 7,212,993 to Bodurtha et al, herein Bodurtha.

Regarding claim 1, Whitworth discloses a system for transacting securities, comprising: a plurality of securities issued by a single issuer ([0070], [0040], [0029]). However Whitworth does not disclose a securities combine comprising a computer aggregating the securities in at least one tradable bundled instrument security for transaction; wherein at least one type of the plurality of securities are publicly traded securities of the single issuer. Bodurtha discloses a securities combine comprising a computer aggregating the securities in at least one tradable bundled instrument security for transaction; wherein at least one type of the plurality of securities are publicly traded securities of the single issuer (column 3: 1-5; column 3: lines 15-22; column 6: lines 10-

17). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include a securities combine comprising a computer aggregating the securities in at least one tradable bundled instrument security for transaction; wherein at least one type of the plurality of securities are publicly traded securities of the single issuer. One of ordinary skill in the art would have been motivated to include a securities combine comprising a computer aggregating the securities in at least one tradable bundled instrument security for transaction; wherein at least one type of the plurality of securities are publicly traded securities of the single issuer in order to ensure that the entire process of transacting the securities combine is done in an efficient manner.

Regarding claim 2, Whitworth discloses the system as recited in claim 1. Whitworth further discloses wherein the securities comprise any of debt, equity, and hybrid securities ([0067]).

Regarding claim 18, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein receipt from an investor of the bundled instrument security comprises redemption of the bundled instrument security. Bodurtha discloses wherein receipt from an investor of the bundled instrument security comprises redemption of the bundled instrument security (column 11: lines 9-12). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein receipt from an investor of the bundled instrument security comprises redemption of the bundled instrument security. One of ordinary skill in the art would have been motivated to include wherein receipt from an

investor of the bundled instrument security comprises redemption of the bundled instrument security in order to ensure that the investor receives the payout that they were promised.

Regarding claim 19, Whitworth discloses the system of claim 1. Whitworth further discloses wherein said bundled instrument security comprises a cash distribution issued on the units of said plurality, wherein the cash distribution is indirectly paid to at least one of the investors (claim 15).

Claim 22 is being rejected using the same rationale as claim 1.

Regarding claim 27, Whitworth discloses the method as recited in claim 22. However Whitworth does not disclose selling the bundled instrument security to at least one investor at a price based on a multiple of at least one of the plurality of the securities. Bodurtha discloses selling the bundled instrument security to at least one investor at a price based on a multiple of at least one of the plurality of the securities (column 6: lines 22-29). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include selling the bundled instrument security to at least one investor at a price based on a multiple of at least one of the plurality of the securities. One of ordinary skill in the art would have been motivated to include selling the bundled instrument security to at least one investor at a price based on a multiple of at least one of the plurality of the securities in order to ensure that the investor receives the best possible price for the bundled security.

Claim 30 is being rejected using the same rationale as claim 18.

Regarding claim 31, Whitworth discloses the method as recited in claim 30. Whitworth further discloses purchasing the expelled at least one security of the plurality of securities ([0021], [0049], [0088]).

Claim 33 is being rejected using the same rationale as claim 22.

5. Claims 3-4, 10-12, 15 are being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and further in view of US 2002/0046154 to Pritchard.

Regarding claim 3, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose bundling rules that instruct the security combine to bundle the securities when creating the bundled instrument security. Pritchard discloses bundling rules that instruct the security combine to bundle the securities when creating the bundled instrument security (Fig 2: 202,204; [0026]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include bundling rules that instruct the security combine to bundle the securities when creating the bundled instrument security. One of ordinary skill in the art would have been motivated to include bundling rules that instruct the security combine to bundle the securities when creating the bundled instrument security in order to ensure that those stocks or bonds that meet a certain security are included in the bundled security.

Regarding claim 4, Whitworth discloses the system as recited in claim 2. However Whitworth does not disclose wherein the security combine is a trust operated under the guidance of the trustee. Pritchard discloses wherein the security combine is a trust operated under the guidance of the trustee ([0015]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the security combine is a trust operated under the guidance of the trustee. One of ordinary skill in the art would have been motivated to include wherein the security combine is a trust operated under the guidance of the trustee in order to ensure the investor attains the maximum possible return on their security.

Regarding claim 10, Whitworth discloses the system as recited in claim 1. Whitworth further discloses wherein the securities are of disparate security types comprising any of equity, debt, and hybrid securities ([0067]).

Regarding claim 11, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein the system operates in a computing environment such that the security combine comprises a computing application. Pritchard discloses wherein the system operates in a computing environment such that the security combine comprises a computing application ([0044]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the system operates in a computing environment such that the security combine comprises a computing application. One of ordinary skill in the art would have been motivated to include wherein the system

operates in a computing environment such that the security combine comprises a computing application in order to ensure that the entire process of transacting securities is completed in an efficient manner.

Regarding claim 12, Whitworth discloses the system as recited in claim 1. However Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein the bundled instrument security is generated from a selected multiple of the plurality of the securities. Pritchard discloses wherein the bundled instrument security is generated from a selected multiple of the plurality of the securities ([0015]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the bundled instrument security is generated from a selected multiple of the plurality of the securities. One of ordinary skill in the art would have been motivated to include wherein the bundled instrument security is generated from a selected multiple of the plurality of the securities in order to ensure that the entire process of transacting the securities combine is done in an efficient manner.

Regarding claim 15, Whitworth discloses the system as recited in claim 12. However Whitworth does not disclose wherein the selected multiple is based on at least one factor comprising any of current share price, market capitalization, trading volume, listing venue, and investor interest. Pritchard discloses wherein the selected multiple is based on at least one factor comprising any of current share price, market capitalization, trading volume, listing venue, and investor interest ([0015]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to

modify Whitworth's invention to include wherein the selected multiple is based on at least one factor comprising any of current share price, market capitalization, trading volume, listing venue, and investor interest. One of ordinary skill in the art would have been motivated to include wherein the selected multiple is based on at least one factor comprising any of current share price, market capitalization, trading volume, listing venue, and investor interest in order to ensure that the entire process of transacting the securities combine is done in an efficient manner.

6. Claims 5-9, 23-26, 32, 34-35 are being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and Pritchard and further in view of US 2004/0002910 to Mizukami.

Regarding claim 5, Whitworth discloses the system as recited in claim 4. However Whitworth does not disclose wherein the trustee is a bank. Mizukami discloses wherein the trustee is a bank ([0006], [0032]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the trustee is a bank. One of ordinary skill in the art would have been motivated to include wherein the trustee is a bank in order to ensure that all transactions are conducted by a financial entity which has the necessary assets in reserve to conduct the transactions.

Regarding claim 6, Whitworth discloses the system as recited in claim 4. However Whitworth does not disclose wherein the bundled instrument Security is represented by depositary receipts issued by the trust and administered by the

trustee. Mizukami discloses wherein the bundled instrument Security is issued by the trust and administered by the trustee ([0095]). Bodurtha discloses the depositary receipts (column 3: line 16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the bundled instrument Security is represented by depositary receipts issued by the trust and administered by the trustee. One of ordinary skill in the art would have been motivated to include wherein the bundled instrument Security is represented by depositary receipts issued by the trust and administered by the trustee in order to ensure that all transactions are conducted by a financial entity which has the necessary assets in reserve to conduct the transactions.

Regarding claim 7, Whitworth discloses the system as recited in claim 6. However Whitworth further does not disclose wherein the depositary receipts are traded on public securities marketplaces, ECNS, and exchanges. Bodurtha discloses wherein the depositary receipts are traded on public securities marketplaces, ECNS, and exchanges (column 4: lines 3-6). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include discloses wherein the depositary receipts are traded on public securities marketplaces, ECNS, and exchanges. One of ordinary skill in the art would have been motivated to include discloses wherein the depositary receipts are traded on public securities marketplaces, ECNS, and exchanges in order to ensure that investors are able to use all venues to trade the security.

Regarding claim 8, Whitworth discloses the system as recited in claim 7. However Whitworth does not disclose wherein the depositary receipts are traded as part of a private securities transaction. Bodurtha discloses wherein the depositary receipts are traded as part of a private securities transaction (column 6: lines 10-16). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the depositary receipts are traded as part of a private securities transaction. One of ordinary skill in the art would have been motivated to include wherein the depositary receipts are traded as part of a private securities transaction in order to ensure that the entire process of trading the security operates with maximum efficiency.

Regarding claim 9, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein the securities are of the same type. Bodurtha discloses wherein the securities are of the same type (column 7: lines 49-51; column 7: line 47; column 8: Table III: "Security Type"). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the securities are of the same type. One of ordinary skill in the art would have been motivated to include wherein the securities are of the same type in order to ensure that a maximum return is achieved by the investors.

Claim 23 is being rejected using the same rationale as claim 7.

Claim 24 is being rejected using the same rationale as claim 15.

Claim 25 is being rejected using the same rationale as claim 9.

Claim 26 is being rejected using the same rationale as claim 10.

Claim 34 is being rejected using the same rationale as claim 6.

Claim 35 is being rejected using the same rationale as claim 7.

Claim 32 is being rejected using the same rationale as claim 6.

7. Claims 13, 28 is being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and Pritchard, and further in view of US 2002/0082979 to Sands et al, herein Sands.

Regarding claim 13, Whitworth discloses the system as recited in claim 12. However Whitworth does not disclose wherein the selected multiple has a value in a selected range in compliance with securities regulations. Sands discloses wherein the selected multiple has a value in a selected range in compliance with securities regulations ([0005]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the selected multiple has a value in a selected range in compliance with securities regulations. One of ordinary skill in the art would have been motivated to include wherein the selected multiple has a value in a selected range in compliance with securities regulations in order to ensure that all trades abide by the rules and regulations with the Securities and Exchange Commission.

Claim 28 is being rejected using the same rationale as claim 13.

10. Claim 14,29 is being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and Pritchard and further in view of US 2001/0037277 to Willis et al, herein Willis.

Regarding claim 14, Whitworth discloses the system as recited in claim 12. However Whitworth does not disclose wherein the selected multiple changes responsive to one or more changes affecting the plurality of securities comprising any of a security split, a reverse security split, and a reorganization event. Willis discloses wherein the selected multiple changes responsive to one or more changes affecting the plurality of securities comprising any of a security split, a reverse security split, and a reorganization event ([0010], [0035]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the selected multiple changes responsive to one or more changes affecting the plurality of securities comprising any of a security split, a reverse security split, and a reorganization event. One of ordinary skill in the art would have been motivated to include wherein the selected multiple changes responsive to one or more changes affecting the plurality of securities comprising any of a security split, a reverse security split, and a reorganization event in order to ensure that the investor is aware of different scenarios which may affect the price of the bundled security.

Claim 29 is being rejected using the same rationale as claim 14.

11. Claims 16-17 are being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth and Bodurtha in view of 5,806,048 to Kiron.

Regarding claim 16, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein the bundled security is sold to, or redeemed by investors in accordance with at least one option position. Kiron discloses wherein the bundled security is sold to, or redeemed by investors in accordance with at least one option position (column 7: lines 58-62). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the bundled security is sold to, or redeemed by investors in accordance with at least one option position. One of ordinary skill in the art would have been motivated to include wherein the bundled security is sold to, or redeemed by investors in accordance with at least one option position in order to ensure that investors have multiple means to realize a profit.

Regarding claim 17, Whitworth discloses the system as recited in claim 1. However Whitworth does not disclose wherein a dollar value spread is tighter in the bundled instrument security than in the ones of the plurality of securities. Kiron discloses wherein a dollar value spread is tighter in the bundled instrument security than in the ones of the plurality of securities (column 3: lines 41 - 45). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein a dollar value spread is tighter in the bundled instrument security than in the ones of the plurality of securities. One of ordinary skill in the art would have been motivated to include wherein a dollar value spread is tighter in the bundled instrument security than in the ones of the plurality of securities in order to ensure that the investor realizes a cost savings when the securities are bundled.

12. Claims 20-21, 36 are being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and further in view of US 2004/0078314 to Maerz et al, herein Maerz.

Regarding claim 20, Whitworth discloses the system of claim 1. However Whitworth does not disclose a first fee that is charged when creating the bundled instrument security. Maerz discloses a first fee that is charged when creating the bundled instrument security ([0086], [0087]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include a first fee that is charged when creating the bundled instrument security. One of ordinary skill in the art would have been motivated to include a first fee that is charged when creating the bundled instrument security in order to ensure that the issuer of the bundled instrument security is properly compensated.

Claim 21 is being rejected using the same rationale as claim 20.

Claim 36 is being rejected using the same rationale as claim 20.

Claim Rejections- 35 U.S.C § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 37-39 are being rejected under 35 U.S.C 102(b) as being anticipated by US Patent 7,212,993 to Bodurtha et al, herein Bodurtha.

Regarding claim 37, Bodurtha discloses a system providing a security for transaction, comprising a computer comprising: a first means for applying bundling criteria comprising any of security price, market capitalization, trading volume, a listing venue of at least one of a plurality of securities, and investor interest in at least one of a plurality of securities at least one type of which is a publicly traded security (column 7: lines 46-52; column 8: table 3; column 3: lines 60-64); second means for bundling a plurality of single issuer, uniform typed units of the at least one publicly traded security into a tradable bundled instrument security in accordance with the bundling criteria while permitting other of the uniform typed units of the at least one publicly traded security to remain publicly traded (column 4: lines 3-5; column 6: lines 10-16); third means for selling the bundled instrument security to at least one investor at a price that is a predetermined multiple of at least one unit of the at least one security (column 6: lines

22-29); and fourth means for redeeming the bundled instrument security from at least one investor (column 11: lines 9-12).

Claim 38 is being rejected using the same rationale as claim 37.

Claim 39 is being rejected using the same rationale as claim 37.

15. Claims 40-42 are being rejected under 35 U.S.C 103(a) as being unpatentable over Whitworth in view of Bodurtha and Pritchard and further in view of US 2002/0087373 to Dickstein et al, herein Dickstein.

Regarding claim 40, Whitworth discloses the security transaction system of claim 39. However Whitworth does not disclose wherein the equity securities are selected from the group consisting of common stock, preferred stock, convertible or exchangeable preferred and preference stock, warrants, options, American Depositary Receipts, and interests in limited partnerships and limited liability companies. Dickstein discloses wherein the equity securities are selected from the group consisting of common stock, preferred stock, convertible or exchangeable preferred and preference stock, warrants, options ([0027]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the equity securities are selected from the group consisting of common stock, preferred stock, convertible or exchangeable preferred and preference stock, warrants, options. One of ordinary skill in the art would have been motivated to include wherein the equity securities are selected from the group consisting of common stock,

preferred stock, convertible or exchangeable preferred and preference stock, warrants, options in order to ensure that all different types of securities can be used in the transaction system. Pritchard discloses American Depositary Receipts, and interests in limited partnerships and limited liability companies ([0008]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include American Depositary Receipts, and interests in limited partnerships and limited liability companies. One of ordinary skill in the art would have been motivated to include American Depositary Receipts and interests in limited partnerships and limited liability companies in order to ensure that the equity securities encompass all types of instruments.

Regarding claim 41, Whitworth discloses the security transaction of claim 39. However Whitworth does not disclose wherein the debt securities comprise any of unsecured notes and debentures, secured notes, mortgage bonds, collateral trust bonds, convertible and exchangeable bonds, notes and debentures. Dickstein discloses unsecured notes, secured notes, and notes ([0027]). Therefore it would have been obvious to one of ordinary skill in the art to modify Whitworth's invention to include unsecured notes, secured notes, and notes. One of ordinary skill in the art would have been motivated to include unsecured notes, secured notes, and notes in order to ensure that all types of instruments are included.

Regarding claim 42, Whitworth discloses the security transaction system of claim 39. However Whitworth does not disclose wherein the hybrid securities comprise convertible notes. Dickstein discloses wherein the hybrid securities comprise convertible notes ([0027]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Whitworth's invention to include wherein the hybrid securities comprise convertible notes. One of ordinary skill in the art would have been motivated to include wherein the hybrid securities comprise convertible notes in order to ensure that all types of securities are available to the investor.

RESPONSE TO ARGUMENTS

On page 8 applicant argues that Whitworth does not disclose, "aggregating a plurality of securities issued by a single issuer" However Whitworth in [0040], does disclose this limitation.

On page 10, applicant argues that with regards to claims 18,30, Bodurtha does not disclose "redemption of a security as claimed" By definition, a redemption of a security is a repayment of the security at or before maturity. The "dividend" in Bodurtha is a type of payment to the holder of the security, therefore is the same as "redeeming a security" as recited in applicants invention.

On page 10, applicant further argues, regarding claim 27, that Bodurtha does not disclose "the price at which the Security receipt is sold". However Bodurtha does disclose this limitation in (column 3, line 1-5). A price has to be associated with the selling of the security.

Regarding claim 31, applicant argues that Whitworth does not disclose an expelled security. However in [0088] of Whitworth, "These processes of separation ..when separated (is akin to applicant's expelling of a security) , an investor has many options. Among these options, he may sell one security and retain the other.....charity".

Claim 33 is now being rejected using the rationale of claim 22.

Claim 39 is now being rejected using the rationale of claim 38.

On page 11, regarding claim 3, applicant argues that Pritchard does not disclose the "bundling rules". However in [0026] of Pritchard, this limitation is disclosed.

Regarding claims 6-7, applicant argues that Mizukami does not disclose, "the depository receipts". However this limitation is disclosed in Bodurtha (column 3: line 16).

Applicant's argument is moot regarding claim 8. Bodurtha discloses the limitation of claim 8 in (column 6: lines 10-16).

Regarding claims 9,25, applicant argues that Bodurtha does not disclose the limitation, "the securities are of the same type". However Bodurtha does disclose this limitation in column 7: line 47 & column 8: (Table III: Security Type).

Regarding claims 10 & 26, applicant argues that Pritchard does not disclose "aggregating investments of disparate types from a single issuer". However Whitworth discloses this limitation in [0067]).

Regarding claim 14&29, applicant argues that Pritchard does not disclose "determining an aggregation multiple based on specified factors". Whitworth discloses the "the determination of aggregation multiple based on specified factors" in [0040]. Pritchard discloses altering the security based on the response to a split merger, or other "capital event" in [0010] & [0035]).

Regarding claims 15&24, applicant argues that Pritchard does not disclose "determining an aggregation based upon specified factors". Pritchard does disclose this limitation in [0015], line 6: " the listed price at which the trust may be traded", price being one of the factors, required by claims 15 & 24.

Regarding claims 20,21,26, applicant argues the Maerz does not disclose a "first fee for creation, nor a second fee, nor a transaction fee". Maerz does disclose these limitations in [0086]: line 5 "all applicable fees". These fees could be fees associated with all steps involved in the processing of the security from creation to redemption.

Claim 25 is now being rejected using the same rationale as claim 9.

Regarding claims 37, applicant argues that Bodurtha does not disclose, "bundling a plurality of securities from a single issuer". Bodurtha does disclose this limitation in column 6, lines 10-17, where the "trust" is the single issuer of the bundled security.

Regarding claim 38, applicant argues that Bodurtha does not teach "a plurality of securities.. issued by a single issuer" or a "bundled instrument security that comprises a selected multiple of at least one of the plurality of securities". Bodurtha does disclose these limitation. Bodurtha discloses in column 6, lines 10-17, where the "trust" is the single issuer of the bundled security. Bodurtha further discloses a "bundled instrument that comprises a selected multiple of at least one of the plurality of securities (column 6: lines 22-29). Specifically in line 25, " Additionally, the number of shares of any particular security in the security receipt can be a fractional or "multiple" quantity...".

Claim 39 is now being rejected using the same rationale as claim 37.

CONCLUSION

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD Z. SHAIKH whose telephone number is (571)270-3444. The examiner can normally be reached on Monday-Friday (9:30-6:00); alt Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Tramell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/10/2011
/M. Z. S./
Examiner, Art Unit 3694

Mohammad Z Shaikh
Examiner
Art Unit 3694

/Ella Colbert/
Primary Examiner, Art Unit 3694